

## **REMARKS**

### **I. General**

Claims 1-40 are currently pending, and all are finally rejected by the Office Action mailed January 14, 2005 and by the Advisory Action mailed May 6, 2005. No claims are amended by this response. Applicant hereby traverses the rejections and requests reconsideration and withdrawal in light of the remarks contained herein.

### **II. Applicant's Record Under M.P.E.P. § 713.04 of Interview with the Examiner**

Applicant's attorney appreciates the Examiner's time and consideration in conducting the telephone interview of May 26, 2005. Applicant respectfully submits the following record of the telephone interview of May 25, 2005 under M.P.E.P. § 713.04.

The following persons participated in the interview: Examiner Andy Rao and Applicant's Attorney Thomas Kelton (reg# 54,214).

The independent claims were discussed with reference made to U.S. Patent 5,903,996 (hereinafter, *Morley*). Specifically, the claims were discussed with reference to Figures 2a-b and 6 and the passage at column 9, lines 45-65, of *Morley*. An agreement was reached that the claims are patentable over *Morley* because of the structures and functions in the independent claims that differentiate those claims from the system described in Figures 2a-b and 6. The specific features and functions are argued below in more detail, per the Examiner's request.

In view of the telephone interview of May 26, 2005, Applicant hereby presents the following arguments for the Examiner's consideration.

### **III. Claim Rejections**

Claims 1-40 are rejected under 35 U.S.C. § 102(e) as being anticipated by *Morley*. Applicant traverses the rejections as follows.

**A. Claims 1-16**

To anticipate a claim under 35 U.S.C. § 102, a reference must teach every element of the claim, see M.P.E.P. § 2131. Moreover, in order for an applied reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim,” see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). As discussed further below, these requirements are not satisfied by the 35 U.S.C. § 102 rejection because *Morley* does not teach every element of the claims.

Claim 1 recites, in part, “a detector for sensing the scene in a second spectral band, the detector having an image output representative of the scene,” and “a display for receiving the image output and displaying a displayed image in the first spectral band.” *Morley* does not teach at least these features of claim 1 because it does not teach both a detector and a display.

*Morley* teaches a system that combines a visible light image of a scene with an image of the scene produced from an image intensifier tube. See Figures 2a-b and Abstract. The system of Figures 2a-b shows a system that receives light at an objective lens assembly (item 28). The light is directed to a prism (item 66) that creates one light path for some spectral ranges and another light path for other spectral ranges. The second path goes through an image intensifier tube (item 50) to create a visible image of the scene from the second spectral range. The prism (item 78) combines the light from the first light path with the image from the image intensifier tube to create the combined image seen at the eyepiece (item 80).

The cited passage at column 9, lines 45-65 describes the system of Figure 4. Specifically, it describes that the image produced at the image intensifier tube is inverted, thereby requiring a reversion before being overlaid with the light from the first light path. It also describes that the system may help to produce an image in low-light conditions, since it employs an image intensifier tube.

The system of Figure 6 is a laser range finding control circuit. The photodiode (item 92) produces a pulse of laser light (item 22) that is directed upon a scene. The laser light is

reflected from the scene and received by the image intensifier tube. The microprocessor (item 112) measures the time for the light to travel to and from the scene. See Col. 13, lines 22-30. This is used to provide a distance range to the user of the device. See Id.

It appears that the rejection equates the image intensifier tube of *Morley* with both the claimed detector and display. The above-described portions of *Morley* do not teach both “a detector for sensing the scene in a second spectral band, the detector having an image output representative of the scene,” and “a display for receiving the image output and displaying a displayed image in the first spectral band,” as recited by claim 1. Specifically, the image intensifier tube (item 50 of Figures 2b, 3, and 6) cannot be the recited detector because it does not have “an image output representative of the scene,” nor can it be the recited display because it does not receive “the image output” and display “a displayed image in the first spectral band.”

First, the image intensifier tube does not have the claimed image output because it does not produce any output that can be received by another component to display a displayed image. Therefore, the image intensifier tube is not the claimed detector. Second, the image intensifier tube does not “receive the image output” because it receives the image itself, not an image output. Therefore, the image intensifier tube is not the claimed display. Accordingly, the image intensifier tube of *Morley* cannot be either or both of the claimed detector or display.

The passage at column 9, lines 45-65 of *Morley* does not teach the missing features because it merely describes the reversion of the inverted image from the image intensifier tube. Figure 6 does not teach the missing features because it simply describes a circuit that can be used to find a distance range to a scene. It does not add the claimed image output to the image intensifier tube, nor does it show the image intensifier tube receiving the claimed image output. Thus, *Morley* does not teach at least the above-quoted features of claim 1.

Dependent claims 2-16 each depend either directly or indirectly from independent claim 1 and, thus, inherit all of the limitations of independent claim 1. Thus, *Morley* does not teach all features of claims 2-16. It is respectfully submitted that dependent claims 2-16 are allowable at least because of their dependence from claim 1 for the reasons discussed above.

Accordingly, Applicant respectfully requests removal of the 35 U.S.C. § 102 rejection of claims 1-16.

**B. Claims 17-24**

Claim 17 recites, in part, “generating a video representation of the image,” “transmitting the video representation to a display,” and “generating a visual representation of the image at the display.” *Morley* does not teach the above-recited features of claim 17.

It appears the rejection equates the image intensifier tube to the claimed display. However, the *Morley* system does not teach a component that transmits “the video representation of the image” to the image intensifier tube because the image intensifier tube receives the image itself, rather than a video representation of the image. See Figure 2b that shows light beams as the input to image intensifier tube 50. Accordingly, the image intensifier tube of *Morley* is not the same as the claimed display. Thus, *Morley* does not teach each and every feature of claim 17.

Dependent claims 18-24 each depend either directly or indirectly from independent claim 17 and, thus, inherit all of the limitations of independent claim 17. Therefore, *Morley* does not teach all claim limitations of claims 18-24. It is respectfully submitted that dependent claims 18-24 are allowable at least because of their dependence from claim 17 for the reasons discussed above. Accordingly, Applicant respectfully requests removal of the 35 U.S.C. § 102 rejection of claims 17-24.

**C. Claims 25-32**

Claim 25 recites, in part, “generating a representation of the IR image,” “transmitting the IR image representation to a display,” and “generating a visual representation of the IR image at the display.” *Morley* does not teach the recited features of claim 25. It appears that the rejection equates the image intensifier tube of *Morley* with the claimed display; however, such assertion is incorrect. There is no component that transmits “the IR image representation” to the image intensifier tube because the intensifier’s input is the image itself, not a representation. See figure 2b that shows light beams as the input to intensifier 50.

Further, claim 25 recites, in part, “transmitting the combined images to an intensifier system operable to intensify images in the second spectral region.” *Morley* does not teach at least this feature because *Morley* does not teach a functional unit that is operable to “transmit the combined images to an intensifier system,” because the image intensifier tube of *Morley* receives the light from the second light path, not a combined image. See Figure 2b, which shows image intensifier tube 50 receiving light from prism 66 and shows a combined image at plane 74. Therefore, *Morley* does not teach, transmitting the combined images to an intensifier system operable to intensify images in the second spectral region,” as claimed by claim 25. Accordingly, *Morley* does not teach the above-recited features of claim 25.

Dependent claims 26-32 each depend either directly or indirectly from independent claim 25 and, thus, inherit all of the limitations of independent claim 25. Thus, *Morley* does not teach all claim limitations of claims 26-32. It is respectfully submitted that dependent claims 26-32 are allowable at least because of their dependence from claim 25 for the reasons discussed above. Accordingly, Applicant respectfully requests removal of the 35 U.S.C. § 102 rejection of claims 25-32.

#### **D. Claims 33-40**

Claim 33 recites, in part, “a detector for viewing the scene in a second spectral range, the detector having an image output representative of the viewed scene,” and “a display for receiving and displaying the image output.” *Morley* does not teach the above-recited features of claim 33 because the image intensifier tube of *Morley* is not the claimed detector, nor is it the claimed display. It should be noted that the cited image intensifier tube is not the same as the claimed display because the *Morley* image intensifier tube receives the image itself as input, rather than receiving image output. Therefore, *Morley* does not teach the claimed display. Further, the image intensifier tube does not have the claimed image output because it does not produce any output that can be received by another component to display the image output. Therefore, the image intensifier tube is not the claimed detector. Thus, *Morley* does not teach the above-recited features of claim 33.

Dependent claims 34-40 each depend either directly or indirectly from independent claim 33 and, thus, inherit all of the limitations of independent claim 33. Thus, *Morley* does not teach all claim limitations of claims 34-40. It is respectfully submitted that dependent

claims 34-40 are allowable at least because of their dependence from claim 33 for the reasons discussed above. Accordingly, Applicant respectfully requests removal of the 35 U.S.C. § 102 rejection of claims 34-40.

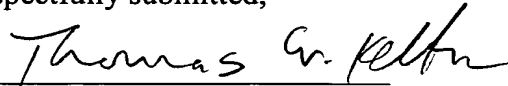
**IV. Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes a 1 month extension of time fee of \$120.00 is due with this response. However, if any additional fee is due, please charge our Deposit Account No. 06-2380, under Order No. 46030/P040US/10407171 from which the undersigned is authorized to draw.

Dated: June 6, 2005

Respectfully submitted,

By 

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